

VOLUNTARY DISCLOSURE NOTICE
PENNSYLVANIA TURNPIKE COMMISSION

Subject: Owner Operator Independent Drivers Association, Inc. et al. v. Pennsylvania Turnpike Commission et al., No. 1:18-cv-00608-SHR (United States District Court for the Middle District of Pennsylvania)

On March 15, 2018, several individuals, entities and associations involved in or related to the commercial trucking industry (the “*Trucking Plaintiffs*”) filed a class action lawsuit against the Commission, several individuals in their individual capacity and in their official capacity related to the Commission, an individual in her individual capacity and in her official capacity as Chair of the Commission and as Secretary of Transportation, and Governor Wolf, in both his individual and official capacity (the “*Defendants*”). The litigation is captioned Owner Operator Independent Drivers Association, Inc. et al. v. Pennsylvania Turnpike Commission et al., No. 1:18-cv-00608-SHR (United States District Court for the Middle District of Pennsylvania) (the “*Lawsuit*”). The Trucking Plaintiffs alleged that Act 44, as amended by Act 89 (hereinafter, “*Act 44/89*”), violates the Commerce Clause and the right to travel under the U.S. Constitution, either facially or as applied, because the Commission improperly imposes Turnpike tolls beyond that which is necessary for the operation and maintenance of the Turnpike System and that the Commission expends toll revenues for purposes other than the operation and maintenance of the Turnpike System.

The Lawsuit seeks, among other things, the following injunctive remedies: (1) a permanent injunction enjoining the Commission from issuing any further bonds or incurring any additional debt for the purpose of making Act 44/89 payments; and (2) a permanent injunction prohibiting the Commission from using toll revenues to make payments on outstanding bonds issued to meet Act 44/89 obligations. Moreover, the Lawsuit seeks certain monetary damages including a refund of a portion of certain tolls allegedly imposed upon the Trucking Plaintiffs’ use of the Turnpike System in excess of what was reasonably necessary to pay for the cost of operating and maintaining the Turnpike System, together with any legally applicable interest and other compensation.

The Commission along with all of the other Defendants have been vigorously defending Act 44/89 and the propriety of the Commission’s imposition and use of Turnpike toll revenues in court. All Defendants have filed motions to dismiss the complaint. In addition, the Commission filed an alternative motion for summary judgment. The Commission’s motions asserted that Act 44/89, the amount of the Tolls and the use of the Toll revenues violate neither the Commerce Clause nor the Constitutional right to travel. The Commission also asserted that the uses of toll revenues fall within Congressional authorization.

On April 4, 2019, Judge Yvette Kane of the United States District Court for the Middle District of Pennsylvania (the “*District Court*”) issued a decision in which the District Court determined that Tolls assessed by the Commission do not unduly burden interstate commerce or interfere with the constitutional right to travel and the Trucking Plaintiffs’ complaint failed to state a claim upon which relief may be granted for violations of the dormant Commerce Clause or the constitutional right to travel. Accordingly, the District Court granted the Defendants’ motions to dismiss the Trucking Plaintiffs’ complaint.

The Trucking Plaintiffs appealed the District Court's decision to the United States Court of Appeals for the Third Circuit (the "*Third Circuit*"). On August 13, 2019 the Third Circuit affirmed the decision of the District Court dismissing the Trucking Plaintiffs' complaint. The Third Circuit found: "Because Congress has permitted state authorities, such as Defendants, to use tolls for non-Turnpike purposes, the collection and use of the tolls do not implicate the Commerce Clause. Moreover, because Plaintiffs have not alleged that their right to travel to, from and within Pennsylvania has been deterred, their right to travel has not been infringed." (Opinion, page 6.)

Should the Trucking Plaintiffs request additional action at the Third Circuit or attempt to appeal the Third Circuit's decision to the United States Supreme Court, the Commission and the other Defendants will continue to vigorously defend Act 44/89 and the propriety of the Commission's imposition and use of the Turnpike toll revenues in court. No assurance can be given whether any such action or appeal will be taken or made, or as to the results of any action or appeal or the effect of such action or appeal on the Commission.

The Commission is filing this information as a voluntary filing on the Municipal Securities Rulemaking Board's Electronic Municipal Market Access ("EMMA") system. This information is only accurate as of its date.

Date: August 13, 2019